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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/398,268	09/17/1999	D. DELANO ROSS JR.	14103.0001	9838

7590 04/11/2002

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EXAMINER

KERR, DEBRA E

ART UNIT PAPER NUMBER

2165

DATE MAILED: 04/11/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

*Handwritten signature*

**Office Action Summary**

Application No.

09/398,268

Applicant(s)

ROSS ET AL.

Examiner

Debra E Kerr

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5-6
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

**Claims 1-14 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Tobin (US 6,141,666).**

Tobin discloses a server based communication system providing dynamic customization of hypertext tagged documents comprising:

- An e-commerce outsourcing process providing a host website in communication with a visitor computer (col. 5, lines 3-11)
- Context sensitive, transparent e-commerce support pages (col. 5, lines 42-45)
- Capture a look and feel associated with a host website (col. 2 line 58 – col. 3 line 4)

- Provide the host website with a link for inclusion within a page on the host website for serving to a visitor computer (col. 5, lines 46-51)
- The link correlates to a selected commerce object (col. 5, lines 61-67)
- Serving to the visitor computer an e-commerce supported page with a look and feel corresponding to the captured look and feel description of the host website associated with the provided link and with content based on the commerce object associated with the provided link (col. 6, lines 55-67).
- The selected commerce object is a selected product (col. 8, lines 6-9 and lines 58-66)
- The selected commerce object is a selected product category (col. 7, lines 55-67)
- The selected commerce object is an indicator for dynamic content selection (col. 3, lines 63-67)
- The content within the served page is dynamically selected according to contextual information derived from the page on the host website including the provided link (col. 7, lines 12-31)
- A data store (col. 7, lines 27-31)
- A communications link to a visitor computer (col. 6, lines 20-34)
- A processor for executing instructions (col. 20, lines 27-31)
- Capturing a look and feel description of a host website (col. 7, lines 19-29)
- Storing the captured look and feel description in the data store (col. 7, lines 27-31)

- Receiving an activation of the provided link via the communication link and serving an e-commerce supported page via the communication link (col. 8, lines 10-19)
- Receiving an identification for an example page from a target website (col. 3, lines 45-51)
- Retrieving the example page via a communication link to the target website (col. 3, lines 52-55)
- Identifying look and feel elements within the retrieved example page (col. 12, line 62 – col. 13 line 5)
- Storing the identified look and feel elements as a look and feel description associated with the target website in a data store (col. 13, lines 55-62)
- A web server layer with one or more processors (col. 17, lines 55-59)
- A Database server layer with one or more processors and a data store for use in dynamically constructing web pages (col. 7, lines 41-46)
- Receiving an end user request (col. 19, lines 66-67)
- Determining how to process data to respond to the end user request (col. 20, lines 1-7)
- Selecting an application server that processes data in the determined way (col. 3, lines 2-13 and col. 8, lines 20-24)
- Request and receive the processed data from the selected application server (col. 7, lines 17-31)

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- Constructing a web page (col. 6, lines 63-67)
- Serving the constructed web page (col. 20, lines 40-45)
- Receiving a request for processed data from a selected processor of the Web server layer directed to a selected application server (col. 8, lines 20-24 and col. 21, lines 4-9)
- An application server that requests data required to fulfill the received request from a database server and receives the required data from the database server running on the selected database server processor (col. 6, lines 63-67 and col. 13, lines 55-62)
- Processing the received data using the selected application server into the requested processed data (col. 14, lines 50-64)
- A database server that receives a request for data from a selected processor of the application server layer, retrieves the requested data from the data store, and forwards the requested data to the selected processor of the application server (col. 7, lines 17-24 and col. 20, lines 40-55)

Please note that Tobin does not explicitly disclose an application server as distinct from a web server. This feature is deemed to be inherent to Tobin's system, as the system is configured to produce a web site for marketing and selling floral and gift services. Tobin's system would be inoperable without an application server for configuring the necessary software elements to output a web site.

Please also note that Tobin's system does not explicitly disclose product or category records. These features are deemed to be inherent to Tobin's system, as Tobin discloses a web site selling products comprising a database. The database would be inoperable if it were not comprised of data records, including product and product category records for retrieving and displaying the products and product categories disclosed on Tobin's web site.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wong et al. (US 5,890,175) discloses a method for dynamically generating and displaying a catalog.

Witek et al. (US 6,253,188) discloses a method for providing classified ads over the Internet.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra E Kerr whose telephone number is (703) 305-3184. The examiner can normally be reached Monday, Tuesday, Thursday and Friday from 7 a.m. to 5:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 305-1440. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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746-7239 for regular communications and (703) 746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9000.

Debra E. Kerr  
AU 2165

DEK

April 8, 2002

  
WYNN COGGINS  
SUPERVISORY PATENT EXAMINER  
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